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SIPDIS

STATE FOR EUR/WE-JLEVIN, EUR/EX, L, M/R, EB/TRA/MA-SMILLER  
CBP FOR OIA-KTHOMSEN, RBONNER AND AGINA  
ICE FOR FOREIGN OPS DIVISION

E.O. 12958: N/A

TAGS: [AMGT](#) [AODE](#) [EWWT](#) [FR](#)

SUBJECT: EU GOVTS STILL DISCUSSING CSI STATUS ISSUE, SAYS  
GOF

REF: A. STATE 64240

[1](#)B. PARIS 2062

[1](#)1. (U) This is an action request.

[1](#)2. (SBU) SUMMARY AND ACTION REQUEST: The French Foreign Ministry said April 21 that it had not made a decision on the question of status for U.S. Container Security Initiative (CSI) personnel at French ports, and that it continued to consult with its EU partners. In three to four weeks, the GOF expects that EU member states that host CSI will have established a decision timeline to indicate a date by which they will reach consensus on the status issue. The GOF confirmed that, pending resolution of the issue, it had "frozen" the Administrative and Technical (A&T) status of CSI personnel at the port of Le Havre, France. This has so far affected import privileges, but not immunity, as we understand it.

[1](#)3. (SBU) While we have little control over how quickly EU governments arrive at a joint decision, in the interim, we request guidance on an approach to the GOF on the immediate issue of the GOF status "freeze," which we perceive as a de facto withdrawal of some benefits of A&T status for CSI personnel. We also request guidance on how the Embassy might respond to an eventual request for reciprocity of status for European customs officials whose countries wish to post them in the U.S. as part a reciprocal CSI program. END SUMMARY AND ACTION REQUEST.

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EU Governments Still Discussing CSI Status  
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[1](#)4. (SBU) Embassy Econ MinCouns delivered Ref A demarche to Foreign Ministry DAS-equivalent for transportation, infrastructure and energy policy Jean-Claude Nolla on April 21 accompanied by Embassy ICE Attache, HR representative and econoff. In response, Nolla said he took note of our points and understood U.S. concern regarding the need to move quickly to decide on appropriate status for CSI personnel. However, he said, the GOF had not yet made a firm decision and continued to consult with its EU partners in Brussels where the debate on CSI status continued largely via "corridor" discussions.

[1](#)5. (SBU) Nolla expects member state representatives to establish a calendar within the next month targeting a date for consensus. He agreed that each member state possessed the authority to grant appropriate diplomatic status itself and that the EU had no legal imperative to form a common position on the issue. However, he said, key member states (although not France, initially) had proposed a common approach because of a realization that the status of CSI personnel could in the future have an broad impact on European Community customs issues. This realization lent the movement a political impetus, he said, although it was clear that lacking any legal basis for an official Council decision, whatever member states eventually decided would be enshrined in an informal and "hopefully very flexible" agreement.

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Commission Role?  
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[1](#)6. (SBU) As for the involvement of the European Commission, Nolla reiterated that the Commission was not behind the effort to harmonize CSI status. However, he reported that the Commission had responded to questions about its competence in the matter put to it by the U.K. and Germany in a way that indicated it may have a role in the debate. Its responses indicated, Nolla said, that Commission regulation of the use of personal data and confidential business information in the EU -- which CSI personnel may have access to -- has provided a basis in the past for weighing in on other community questions. Drawing on this example, Nolla suggested that the Commission should not be counted out as a player in this issue and reminded that it was the Commission that had initially issued infringement proceedings against EU members which had concluded bilaterals with U.S. Customs because of the potential commercial impact of what the Commission perceived to be inevitable "trade distortions"

introduced by CSI.

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"Frozen" In Le Havre  
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17. (SBU) Nolla confirmed information the Embassy HR Section received via telephone from the Foreign Ministry protocol office on March 29, i.e. that the GOF had "frozen" the Administrative and Technical (A&T) status of CSI personnel currently in Le Havre pending the outcome of the GOF's reconsideration of the status question. So far the only concrete result of the "freeze" is that duty-free importation of privately-owned vehicles for three CSI employees in Le Havre has been suspended. The two other employees imported their vehicles before the "freeze" took effect. Nolla stressed that France supported the objectives and the operation of the CSI programs in Le Havre and Marseille, and that the GOF's "freezing" of A&T status was not because the GOF had any problems with U.S./French cooperation regarding the CSI counterterrorism program or because of any concerns about individual CSI personnel. Rather it resulted from the necessity of maintaining a "snapshot" of the current status while a common CSI status policy was worked out among EU partners. Nolla did not raise the issue of immunity and it is our understanding that CSI employees retain the immunities granted with A&T status.

18. (SBU) We responded that, for the purpose of certain benefits, "freezing" status for current CSI personnel was the same as withdrawing status and that the "freeze" in Le Havre, as well as any future decision to grant less than the equivalent of A&T status to all CSI personnel, would be detrimental to USG efforts to recruit, form teams, and manage the CSI program. Nolla said he understood and wanted to continue to work with the U.S. for an acceptable outcome. When we cited examples of several member states that had already granted A&T status to CSI personnel (the Netherlands, Italy, Sweden and most recently Greece), Nolla said that despite what might appear to be a growing EU member consensus to grant A&T status, he could report that the same governments were saying in Brussels that the issue was open for debate and that, if they had granted status, they had done so (in particular in the case of Sweden) on a temporary basis only.

19. (SBU) As in our March 24 meeting (Ref B) Nolla raised again the option of "En Mission" status as a possible alternative to A&T status. He acknowledged that "En Mission" grants little more than official entry and exit privileges, but thought that additional benefits could be added on an ad hoc basis. Nevertheless, he was pessimistic that even with ad hoc enhancements, the "En Mission" status would measure up to the equivalent of A&T status. Despite this dire prognosis, Nolla summed up that although "En Mission" was one option under consideration it may not be the alternative eventually accepted by CSI host governments after all. They could as easily reach an informal and flexible consensus that would simply limit how far member states can go in granting status.

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COMMENT AND ACTION REQUEST  
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10. (SBU) Although Nolla insists that no decision has been made, we sense that the direction of EU government consensus is toward something less than the equivalent of A&T status. In addition, it is clear that the GOF has no intention of breaking away from what has now become a CSI host government momentum in the EU to harmonize status for CSI personnel. In addition to the longer term question of what EU member governments will eventually decide, in France we are faced with the more immediate problem of the de facto loss of certain benefits for CSI personnel in Le Havre resulting from the GOF's "freeze."

11. (SBU) We request Department's guidance for a formal approach to the GOF asking that it separate the issue of reconsideration of status with the EU from the "freezing" of status of the Le Havre personnel. We may want to consider pointing out that in "freezing" status, the GOF -- contrary to its previous decision to grant A&T status, and without written explanation -- has in effect withdrawn it in certain respects.

12. (SBU) We also request guidance on how the Embassy should eventually respond to a request for reciprocity in the granting of status to European customs officials whose countries wish to take advantage of CBP's offer of CSI as a reciprocal program. The GOF has not raised the issue of reciprocity of status but we expect the question to surface, if not here, then in another EU country, and it may be linked to the issue of status granted to CSI personnel in the EU. What privileges and immunities would the U.S. be prepared to extend to European customs personnel, performing functions similar to those performed by CSI personnel, at major U.S. ports? END COMMENT AND ACTION REQUEST.

